

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, April 17, 2007
Time: 7:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

Mayor Esteves called the meeting to order at 7:00 PM. He announced that the scheduled Closed Session was canceled, and no Closed Session meeting was held.

PRESENT: Mayor Esteves, Vice Mayor Livengood, Councilmembers Giordano, Gomez and Polanski. Councilmember Gomez arrived at 7:09 PM.

ABSENT: None

PLEDGE

Boy Scouts Troop No. 92 Color Guard led the Pledge of Allegiance.

INVOCATION

Vice Mayor Livengood introduced Pastor Griffiths, of the North Valley Christian Church, who gave the invocation, including his prayers for those who lost their lives at Virginia Tech.

MINUTES

MOTION: approve minutes of April 3, 2007 City Council meeting, as submitted

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Gomez)

SCHEDULE OF MEETINGS

MOTION: to approve the Schedule of Meetings (Council Calendar)

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Gomez)

PRESENTATIONS

Mayor Esteves proclaimed:

1. **Holocaust Day of Remembrance** – April 15, 2007. The proclamation will be mailed to the Holocaust Museum in Washington, D.C.

2. **Arbor Day** – April 21, 2007, and it would be celebrated in Milpitas. The proclamation was accepted by Community Advisory Commissioners Chris Lee and Syed Mohsin.

Presentation:

Mr. Marcus Beverly, Risk Manager for the Association of Bay Area Governments (of which Milpitas is a member City) gave recognition to the City for the Risk Management Program. A Grant Award of \$10,000 was presented to the City, for implementation of best practices to reduce risk. He recognized City staff: Finance Director Emma Karlen (risk manager) and Human Resources Director Carmen Valdez.

PUBLIC FORUM

Bill Weisgerber and Bonnie Knight, chairpersons of the Relay for Life American Cancer Society fundraising event each year in Milpitas, thanked the City Council for the City's continued

participation in the annual event. They presented a plaque to the Mayor, as a proud partner sponsor of the Relay.

ANNOUNCEMENTS

Councilmember Giordano announced that the Youth Advisory Commission would host a benefit concert at the Teen Center on May 25, from 6 – 10 PM for \$3. The Milpitas Library had a variety of events upcoming, and she highlighted several. Also, she recently attended an alternative energy conference, and felt that an energy audit of the City Hall building was due.

Councilmember Giordano said also she had received a letter from a resident concerned about street trees, so she asked the City Manager if this was the time to discuss more landscaping for street trees in both older neighborhoods and brand new. The City Manager replied that staff could respond with a report to Council.

Councilmember Polanski noted the grand opening at the new Safeway store last Friday. It was quite an exciting new store to have again in the City. She also requested to adjourn this meeting in memory of the victims and families of the Virginia Tech massacre.

Mayor Esteves thanked all of the participants who helped to prepare for the Mass Feeding drill and evacuation exercise held this week at the Russell Middle School in Milpitas, including many members of the Citizens Emergency Preparedness Advisory Commission.

The Mayor announced the Commissioners recognition event tomorrow evening at 6:00 PM at City Hall. He noted that flags around the City were at half mast to honor those who died in Virginia, until April 22, per the direction of the President. April 26 was the State of the City address by the Mayor at the Council Chambers at 6:00 PM. Saturday, April 28 would be the groundbreaking ceremony for the new Library at 150 N. Main Street. Lastly, Mayor Esteves announced due to global warming, there were many small actions we can all do, such bring your own bag when you go to the supermarket.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None

APPROVAL OF AGENDA

Motion: to approve the agenda, as amended

City Manager Tom Williams said staff requested that Item No. 11 be continued to the May 1 City Council meeting.

Motion/Second: Vice Mayor Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as amended

Councilmember Giordano requested to add Item No. 6 to the consent calendar.

Motion/Second: Vice Mayor Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

* 4. Economic Development Commission Re-appointments

Approved the following on the Economic Development Commission:
Re-appointed Tomo Tuong Nguyen to a term that expires in April 2010.
Re-appointed Barbara Santos to a term that expires in April 2010.
Re-appointed Minh Nguyen as Alternate No. 1 to a term that expires in April 2009.

* 5. Staff Appointment to Water Commission

Approved the appointment of Kathleen Phalen as the staff alternate representing Milpitas on the Santa Clara Valley Water Commission.

- * **6.** Donation to VITA Approved a donation in the amount of \$490 to the Volunteer Income Tax Assistance (VITA) program at the Milpitas Library, with the funds from the City Council's Community Promotions budget.

- * **8.** Approve Parking Task Force Membership and 2007 Work Program Approved the City of Milpitas Parking Task Force membership and 2007 Work Program; and, direct staff to solicit participants for the Task Force, pending final City Council approval.

- * **9.** PRCRC 2007 Work Plan Approved the Parks, Recreation and Cultural Resources Commission 2007 Work Plan.

- * **15.** Resolution on MOU with County for Avoid the 13 Adopted Resolution No. 7667 approving the Memorandum of Understanding with the County of Santa Clara, for reimbursement of police costs incurred related to the Holiday Driving Under the Influence campaign, and authorized the Police Chief to execute MOU with the County of Santa Clara, subject to approval as to form by the City Attorney.

- * **16.** Resolution for the "Click It or Ticket" Program Adopted Resolution No. 7668 approving an agreement with the Regents of the University of California regarding the "Click It or Ticket" Program, and authorized the Chief of Police to execute the agreement with the Regents of the University of California, subject to approval as to form by the City Attorney.

- * **17.** Agreements for Aspen Apartments, Project No. 3199 Approved public improvement plans for Project No. 3199, and authorized the City Manager to execute the secured Subdivision Improvement Agreement and Encroachment Permit Agreement for Aspen Family Apartments, subject to the approval of the City Attorney as to form.

- * **18.** Defer Water Fees for Piercey Toyota, Project No.3203 Authorized the City Engineer to execute an agreement with Piercey Toyota for water conservation program and for deferred payment of water and sewer connection fees and treatment plant fees, subject to the approval of the City Attorney as to form.

- * **19.** Award Construction Contract to O'Grady Paving, Project No. 4236 Approved budget appropriation for \$475,780, from the Traffic Congestion Relief Fund, to award this project, and awarded a Construction Contract to O'Grady Paving, Inc. in the amount of \$972,846.50.

- * **20.** Approve Amendment to Agreement with consultant Swinerton Management Authorized the City Manager to execute Amendment No. 1 to the agreement with Swinerton Management & Consulting in the amount of \$700,000, subject to approval as to form by the City Attorney, for the following work: Main Sewage Pump Station Improvements, Project No. 6103, Hwy 237/I880 Interchange, Project No. 4170; Berryessa Pump Station Improvements, Project No. 8138; Gibraltar Reservoir & Pump Station, Project No. 7101; Venus Pump Station, Project No. 6101, and other Capital Improvement Projects as assigned

- * **21.** Authorize City Manager to Execute Agreement with Randall Funding and Development Inc. Authorized the City Manager to execute the agreement with Randall Funding and Development, Inc., in the amount of \$25,000, subject to approval as to form by the City Attorney.

- * **22.** Change Order No. 1 with Anderson Pacific Engineering Construction Inc. Authorized the City Engineer to execute the Contract Change Order for Anderson Pacific Engineering Construction, Inc. for Project No. 6103, in the amount of \$36,702.25.

- * **23.** Agreements for Professional Planning Services with Lamphier-Gregory and Metropolitan Planning Group Authorized the City Manager to execute contract agreements with: 1) Lamphier-Gregory for a part-time Contract Planner to manage the Transit Area Plan Project in an amount not-to-exceed \$93,000, and 2) Metropolitan Planning Group, Inc. for two Contract Planners, 50 hours per week, in an amount not-to-exceed \$165,000, subject to the approval of the City Attorney as to form.

PUBLIC HEARINGS

- 1.** Institutional Zoning Principal Administrative Analyst Cindy Maxwell reviewed the staff recommendation to approve planning changes to the General Plan and Zone Change as well as to introduce

(4) Motion: introduce Ordinance No. 38.772 (Zone Change No. ZC 2007-6) rezoning 28 sites to “I-S” or “I-TOD-S” Institutional

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried unanimously: AYES: 5
NOES: 0

2. CDBG Funding Allocations

Senior Housing and Neighborhood Preservation Specialist Gloria Anaya introduced the recommendations for funding Community Development Block Grant programs in Milpitas and the annual Action Plan for the coming year.

To start, she noted a correction to the staff report: \$389,856 was the correct amount (p. 7 of agenda staff report) for the Non-Public Service funds to be disbursed.

Ms. Anaya reviewed the City’s priorities for spending the CDBG funds granted to Milpitas, with an emphasis on senior housing, youth/teen services, homeless/sheltering services, child care, and battered women’s services (for Public Services funds); and home repair/rehabilitation, affordable housing and rental apartment rehabilitation (for Non-Public funds). Two other policies were adopted last year by the Council: 25% of public services would be spent for city programs, and increased allocation for fair housing services, up to \$25,000.

Staff reported the Community Advisory Commission held a public hearing on March 4, and considered the 19 applications the City received for funding: sixteen for Public services and three for Non-Public services. CAC’s recommendations were included in the Council’s agenda packet.

Next, Senior Housing Planner Felix Reliford introduced the one-year action plan, as required by the federal Housing and Urban Development department. He noted that no comments were received on the plan.

Mayor Esteves opened the public hearing, and invited speakers to the podium.

Joseph Oncay, Economic and Social Opportunities thanked the CAC and city staff for recommending funding for ESO again this year. Unfortunately, ESO cannot continue to pursue funding in Milpitas, due to some actions in the City of San Jose that were seriously affecting the agency (those had to do with re-imbursement practices in the neighboring City). Therefore, he sadly requested that the City of Milpitas not fund his organization this year.

Coleen Hudgin, of Live Oak Senior Services, was proud to collaborate with the City of Milpitas to provide care to seniors who need 24 hour care in this City. She worked closely with the staff at the Senior Center, so she wanted to thank the City Council and the CAC members. Mayor Esteves asked where facilities were located and she responded in San Jose, but Live Oak provided services in Milpitas.

Georgia Bacil, Senior Adults Legal Assistance (SALA), 160 E. Virginia in San Jose, explained her agency was a non-profit law office for low-income seniors. SALA provided legal assistance to seniors at the Milpitas Senior Center. She described SALA’s operations and they do not charge for attorney’s services.

Megan Watkins, Catholic Charities Long Term Care - Ombudsman program, said thank you to the City of Milpitas for its support of the ombudsman program. She served seniors in the Hamilton and Genesen care homes located in Milpitas.

Mr. Reliford said the Council had some options regarding the \$81,348 recommended to fund ESO that the organization cannot use. The City could recommend it for other

programs, or re-advertise for programs and receive new applications.

Councilmember Gomez wanted city staff to find out what other cities were doing about ESO, particularly the City of San Jose.

Councilmember Polanski wanted to look for other ways that those seniors (ESO clients) would be served, and wanted to put the funding aside for this meeting. Also, she asked staff for a better version of the chart for funding recommendations with better text size/shading. She supported the CAC recommendations.

Councilmember Giordano would like to see the \$81,000 for ESO go to organizations that already applied, and distribute it across the board. Mr. Reliford explained, however, that the funds could only go to non-public services.

Mayor Esteves asked if staff knew what percent of funding went to each priority that Council adopted last year. Staff needed to provide the analysis given to CAC to answer that detailed question.

(1) Motion: to close the Public Hearing

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried unanimously: AYES: 5
NOES: 0

(2) Motion: (a) approve the Community Advisory Commission recommendations including the staff adjustments due to reduced funding from HUD, for FY 2007-08 CDBG funding, to fund 16 public projects, and 2 non-public housing related projects (b) Adopt the One-Year Action Plan, and (c) no funding for Economic and Social Opportunities at this time, and consider other organizations that could provide service.

Motion/Second: Councilmember Polanski/Councilmember Gomez

Motion carried unanimously: AYES: 5
NOES: 0

3. Entertainment Event Permit for Carnival May 10-13, 2007

City Clerk Mary Lavelle introduced the request from Butler Amusements Inc. to hold a carnival at the Great Mall of Milpitas for the weekend of May 10 -13, 2007. She reported that City Departments had reviewed the permit application, some requirements were provided by memo to the applicant, and requested that the Council authorize the permit, similar to its approval about one year ago.

Vice Mayor Livengood inquired about requirements of the Fire Department, and asked about the "no comment" remark from the traffic engineer. Staff responded that was approval with no specific additional requirements of the applicant.

Councilmember Giordano asked about regulations allowing only one carnival per month. The City Clerk concurred that the Milpitas Municipal Code permitted only one Entertainment Event Permit to be approved by Council within one month, while the Council had authority to waive that provision.

Mr. Mike Gorman of Butler was present to answer questions from the Mayor and Council. Mayor Esteves asked him who checked the carnival equipment for safety, and Mr. Gorman explained that the state of California did so and certified each ride.

Mayor Esteves invited speakers from the audience upon opening the public hearing, no remarks were given.

(1) Motion: close the public hearing

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried unanimously: AYES: 5
NOES: 0

(2) Motion: approve the Entertainment Event Permit No. 2007-1 for Butler Amusements to hold a carnival at the Great Mall of Milpitas, from May 10 -14, 2007

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried unanimously: AYES: 5
NOES: 0

Following the vote, Mayor Esteves suggested that Butler Amusements consider, on a voluntary basis, making a donation to a Milpitas non-profit organization, if the carnival proved successful.

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA 1. CALL TO ORDER Mayor/Agency Chairman Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 8:24 PM.

RA 2. ROLL CALL **PRESENT:** Mayor/Chair Esteves, Vice Mayor/Vice Chair Livengood and Agency/Councilmembers Giordano, Gomez, and Polanski

ABSENT: None

RA 3. MEETING MINUTES Motion: approve the Redevelopment Agency minutes of April 3, 2007, including joint meeting with the City Council, as submitted

Motion/Second: Agency/Councilmember Giordano / Agency/Councilmember Polanski

Motion carried unanimously: AYES: 5
NOES: 0

RA 4. Approval of Agenda and Consent Calendar Motion: approve the agenda and Agency consent calendar (items with asterisk*)

Motion/Second: Agency/Councilmember Giordano / Agency/Councilmember Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

RA 5. Draft 2007-2012 CIP City Engineer Greg Armendariz introduced the review of the five-year Capital Improvement Program, a comprehensive five-year plan of projects involving construction, renovation, retrofitting, and improvements to public facilities. It involved Streets, Parks, Public buildings, and the city's utility infrastructure. Summary of the CIP's Funding was \$53 million for the coming five years, representing a little over \$5 million per year spending on projects. It was reviewed by various bodies including the Council's CIP Subcommittee, the PRCRC, and the Planning Commission.

Community Improvements (8 projects), Parks (4 projects), Streets (11 projects), Water (6 projects), Sewer and Storm were the six fund group areas into which the 2007-08 CIP projects were divided, with a focus on Streets and Water in the next fiscal year, including seismic upgrades and retrofitting.

Mr. Armendariz discussed funding for the new Senior Center planned for the existing library site on N. Milpitas Blvd. Also, he discussed the Alviso Adobe project funding,

for which staff would seek outside grant resources. He provided a list of potential grant funding sources for which the City could compete. The Police Department building was noted as the least efficient building in terms of utilities, and the CIP would address it first on the list of City facilities for improved energy use.

Mayor Esteves asked staff about goals and expectations for grants for the Adobe. \$1 million to \$1.5 million in the first round of applying for grant money was not enough to fund the project. Staff also noted that Proposition 1B funds were for park renovations around the state, and might also be a source in addition to private foundations.

The Mayor expressly stated he wanted this project implemented soon, and did not want to wait ten more years, for example. He wanted staff to come back with true projections for actual funding very soon, and perhaps would need to do some intermediate repair work in the interim.

Councilmember Polanski asked the dollar amount for the bridge and the repairs needed at the historical site location. The City Engineer replied \$7- \$8 million.

Councilmember Gomez stated the CIP looked great; he appreciated the amount of good information and the work it took to put it together. One thing concerned him that was going on was some “\$0” funding recommendations were given for projects. In response, staff offered to bring a list of unfunded needs at the budget hearing.

Streets

For the Streets resurfacing project, \$1.4 million was needed, mostly from gas tax funds. The Carlo St. & Calaveras Blvd. ramp conversion was highlighted, it could go to an expedited process with the state if the bridge costs were under \$1 million. He also noted significantly, that asphalt costs were going up, affecting project costs.

Utilities

Capacity increases needed in the future were highlighted, as called for in the MidTown and Transit Area Plans. Aging infrastructure and emergency preparedness needs drive some of the CIP work in this area. Highlighted also were the Gibraltar Reservoir and Pump Station project.

Mr. Armendariz responded to a question about well maintenance, and identified two wells in the City, for emergency use if main water supply failed in an earthquake.

Water

Five reservoirs in Milpitas that could supply two days of water throughout the city. City Engineer provided seismic strategies for utilities to operate after an earthquake, with retrofitting among other focused activity.

Senior Center

The latest review of the CIP yielded the following proposal to find some funding for the 25,000 sq. ft. center proposed:

CIP reprogram:	\$2,450,000
1997 RDA Bonds interest earned :	\$650,000
City Hall lawsuit settlement:	\$2,400,000 (RDA funds)

Total	\$5,500,000 possible funding
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Councilmember Gomez believed that Projects were divided into three categories: have to do, should do, and would like to do, so he asked what were the identified projects suggested to be put off until future years, in the first category?

City Manager Williams noted that the delay of any street resurfacing of pavement might affect the Pavement Condition Index rating in future years.

Vice Mayor Livengood inquired about parking, relative to the newest plan for an expanded Senior Center. Staff acknowledged problems with parking which would continue.

Parks and Recreation Director Bonnie Greiner noted as a clarification to Mr. Livengood, that this money proposed out of the CIP would not take care of parking challenges anticipated. Staff would have to be very specific with scheduling to alleviate parking situations.

Consultant Janet Tam addressed the parking question. She reported that studies showed that on the weekends would be when the problem of not enough parking availability would be most acute.

Vice Mayor Livengood was not opposed to the expanded Senior Center project, but could not proceed if there was a problem with not enough parking. He sought answers as to where visitors were going to park. He asked everyone to keep a close eye in the next few weeks on Town Center, and parking at City facilities to determine if a new pattern emerged.

City Manager Williams commented perhaps a one way eastbound should be reviewed.

Councilmember Polanski commented that when a meeting was held at City Hall while library was open, with a large turnout in the Council Chambers, then folks must look for parking. She further discussed challenges to parking.

Mayor Esteves asked if the current underground City Hall parking garage could be made available for the users of the new Senior Center. The City Manager responded possibly, and staff could look into that possibility.

Councilmember Gomez asked on Summary-4 page of the CIP, how many projects generate tax increment? City Engineer noted it was hard to identify within projects, but was mostly zero. He next inquired on the cable access facility, was there maintenance cost included in the CIP and Mr. Bill Marion replied yes, from Comcast franchise fees funding to cover the CIP. Mr. Gomez wanted a list of unfunded needs at the next CIP review.

Mayor Esteves made the suggestion to build a median on Milpitas Blvd, from Jacklin north, and the City Engineer replied it was in the fifth year of the CIP.

Councilmember Gomez felt on the street improvements, he did not find any recommended reconstruction, only resurfacing. Staff responded that was correct.

Mayor Esteves thanked the City Engineer and staff for a good comprehensive CIP.

Councilmember Polanski responded that on expanding the Senior Center project and the recommendation on the Singley Phasing project (putting that off into future), she was uncomfortable with it. Mayor Esteves clarified that the City would need to abstain from the Singley project if staff recommendation was approved.

Councilmember Giordano felt now was the opportunity to build the additional portion of the new Senior Center, and recalled the vote at the last meeting. The Mayor agreed with Ms. Giordano. No parking was painful, but no more than 100 seniors at lunch time was not adequate, even currently. Parking solutions must be found, he stated.

Vice Mayor Livengood compared the Senior Center scenario to, if a developer came in, and said please approve my project even though it was short of parking spaces (as was not done in the City). So, with a huge amount of parking needed, he was still interested in the expanded project proposal, but only once the staff returns with recommended

parking solutions.

Councilmember Polanski asked why Council needed to know by May 1 on the parking issue? Consultant Ms. Tam responded the plan was to start construction end of 2008, and working backwards, the schedule demanded it.

(1) Motion: approve the CIP 2007-2012, tentatively approve expansion of the new Senior Center with a \$16.5 million budget, with \$5.5 million from the staff recommendations excepting the Singley paving project (\$ 1 million less), and contingent upon return to Council with a parking plan for the Senior Center by May 1, along with other funding sources; and including the Alviso Adobe project specific funding plan

Motion/Second: Agency/Councilmember Giordano/ Mayor/Chair Esteves

Councilmember Gomez stated that the City could not move forward until it had the parking garage plan.

Councilmember Polanski did not believe Council had to approve the whole CIP as presented tonight, it could wait, and she felt if they were deciding at this meeting, it was rushing the vote on the important CIP overall.

Mayor Esteves commented further on the motion he had seconded.

Councilmember Polanski felt the City Council could wait until May 1.

Motion failed by a vote of: AYES: 2 (Esteves, Giordano)
NOES: 3

(2) Motion: approve the proposed \$11 million new Senior Center CIP, City staff must return to the Agency/Council on May 1 with a report on how the expanded Senior Center proposal could be accommodated including where parking would be located for the appropriate number of Center visitors; accept part of the staff recommendation for the increased funding (\$4.5 million only) with none from the Singley CIP, and continue seeking solutions for full funding.

Motion/Second: Vice Mayor Livengood/Councilmember Gomez

Motion carried unanimously: AYES: 5
NOES: 0

City Council then took a break upon conclusion of the Agency's business discussion, at 10:01PM.

* **RA 6.** Owner Participation Agreement with MIL Aspen Associates

Adopted Resolution No. RA 281 approving the execution of an Owner Participation Agreement with MIL Aspen Associates, a California Limited Partnership, and related documents with certain findings.

* **RA 7.** Agreement amendment with Brian Kangas Foulk

Approved Amendment No. 1 to the agreement with Brian Kangas Foulk Engineers for Project No. 8165 in the amount of \$50,000, subject to approval as to form by the City Attorney.

* **RA 8.** Partial Certificate of Completion for Residential Units for KB Home, Project No. 3160

Authorized the Agency Executive Director to execute the Partial Certificate of Completion for certain residential units for KB Home Terra Serena Project No. 3160, subject to approval of the City Attorney as to form.

RA 9. ADJOURNMENT

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 10:13 PM.

REPORT OF OFFICERS, COMMISSIONS AND COMMITTEES

Open Government
Subcommittee

7. Public Records Act training

Vice Mayor Livengood explained the Open Government Subcommittee requested that staff ensure that City employees who work at a public counter, had a basic understanding of how to respond to requests for public records at all sites. Other facilities beyond City Hall, such as the Community Center, Senior Center, Fire Department, and Police Department, needed to have the basics on how to respond to the requests. He recognized the Public Records Act allowed for some response time frame and that some level of training over and above what was done now was needed.

Councilmember Giordano asked about the budget for such proposed training. City Attorney Mattas replied that his office could do it within current budget, to be administered soon, or possibly with new City Attorney later in the year.

Councilmember Polanski stated anything the Council could do to ensure the City was more open as a government was good, so this Public Records Act training was helpful to train employees how to be more responsive. She thought this could be accomplished and was useful to residents and the public.

Mayor Esteves noted that perhaps staff could come up with circulated material about Public Records after the training, such as a list of “do’s and don’ts.”

Motion: authorize Public Records Act training for all staff over the counter who may be requested to provide public records, as recommended by the Council’s Open Government Subcommittee

Motion/Second: Vice Mayor Livengood/Councilmember Giordano

Additionally, Vice Mayor Livengood requested that that staff provide the training in the next three months, if possible. City Attorney Mattas responded he believed that his office staff would respond in that time frame.

Motion carried by a vote of: AYES: 5
NOES: 0

NEW BUSINESS

10. VTA – BART process for memorandums

City Engineer Greg Armendariz explained that the Valley Transportation Authority suggested that the City coordinate through Technical Coordination Memorandum, to document design decisions between the transit agency and the city. Also, after the TCM on eight specified areas were agreed upon, the City Manager could sign a Letter of Understanding on the design issues.

Councilmember Gomez asked at what point would the site configuration be discussed? City Engineer replied that it would be brought to the Transportation Subcommittee the following week, and return back to the City Council on Tuesday, May 1.

Motion: approve the VTA process for Technical Coordination Memorandum (TCM) and Letter of Understanding (LOU) for the BART Extension to Milpitas, Project No. 8164; and authorize the City Manager to sign the LOU and the Public Works Director/City Engineer to sign the TCM (after Council’s approval)

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

11. Silicon Valley Commercial Real Estate Search tools

Overview of SiliconValleyOnline.Org and SiliconValleyProspector.com, California’s First Regional Commercial Data Base Search Tool and Silicon Valley’s Business Portal - This topic was continued to the next City Council meeting on May 1, 2007.

12. City Council Handbook

Councilmember Giordano asked for this topic to be discussed in order to clarify the role of the Vice Mayor in the absence of the Mayor. She was clear about the Vice Mayor's role to fill in at Council meetings, when the Mayor was absent. Her question was relative to ceremonial matters, attending events or presenting proclamations, and that she felt the Vice Mayor should attend in the Mayor's absence. She recommended specific language to reflect her desire to update the Handbook.

Vice Mayor Livengood noted that state law and the Handbook were pretty clear, and that ceremonial items were covered. He would like to handle what occurred when both the Mayor and Vice Mayor could not attend, and what to do next. He recommended rotating duty of the Councilmembers.

Councilmember Polanski noted that the City just had its 53rd birthday, and only newly had a Handbook in the past few years (written and distributed). Citizens vote to elect the Mayor, the Council chose the Vice Mayor, and so she questioned what was bringing this issue forward now.

Mayor Esteves responded that ceremonial purposes fell on Holidays, and had the Vice Mayor take over when he was absent, but as a Councilmember he was asked to cut ribbon sometimes at a private company. He wanted to follow state law and city rules. Meanwhile, he cannot impose such duties on other people in the City.

Motion: add language recommended by Councilmember Giordano (under the Mayor's section) to the City Council Handbook, where the Vice Mayor assumed all duties when the Mayor was gone, and then rotate the duty among the other three Councilmembers for all ceremonial functions if both were absent

Motion/Second: Vice Mayor Livengood/Councilmember Giordano

Councilmember Polanski was okay with this language, for ceremonial. She believed if it was a private function, that would be different. She pointed out to colleagues that the Handbook was a guide, not law.

Councilmember Giordano asked the City Attorney whether the City Council should define "ceremonial" and he responded they did not have to do so.

Motion carried by a vote of: AYES: 4
NOES: 1 (Esteves)

City Attorney Mattas clarified the process that staff would prepare the requested language for the Handbook, and bring it back on the consent calendar on the next Council agenda.

ORDINANCES

13. Ordinance No. 48.19 regarding management of solid waste

Two ordinances were adopted on the Consent Calendar.

Utility Engineer Kathleen Phalen explained the reasons (as noted in the staff report) for a necessary update to the solid waste ordinance, relevant to four specific items.

Ms. Phalen read the title of the ordinance "An Ordinance of the City of Milpitas Adding Language to and Amending Sections of Chapter 200, Title V of the Milpitas Municipal Code, relating to Solid Waste Management."

(1) Motion: waive the first reading beyond the title of Ordinance No. 48.19

Motion/Second: Vice Mayor Livengood/Councilmember Giordano

Motion carried unanimously: AYES: 5
NOES: 0

(2) Motion: Introduce Ordinance No. 48.19

Motion/Second: Vice Mayor Livengood/Councilmember Gomez

Motion carried unanimously: AYES: 5
NOES: 0

14. Resolution of Intention and Ordinance No. 101.20 for PERS contract amendment

Human Resources Director Carmen Valdez explained the procedural requirements for implementing the required amendment to the PERS agreement. This change was needed to add a benefit for local firefighters, as agreed to in the recently executed Memorandum of Understanding with Local Firefighters IAFF employee group.

(1) Motion: Adopt Resolution of Intention No. 7666

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 3
NOES: 2 (Esteves, Polanski)

Human Resources Director Valdez read the title of Ordinance No. 101.20 "An Ordinance of the City Council of the City of Milpitas Authorizing an Amendment to the Contract Between the City Council of the City of Milpitas and the Board of Administration of the California Public Employees' Retirement System to Provide Section 21547.7 Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service for Local Firefighters Members Only"

(2) Motion: waive the first reading beyond the title of Ordinance No. 101.20

Motion/Second: Vice Mayor Livengood/Councilmember Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

(3) Motion: Introduce Ordinance No. 101.20

Motion/Second: Vice Mayor Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 3
NOES: 2 (Esteves, Polanski)

RESOLUTION

Two resolutions were adopted on the Consent Calendar.

BIDS AND CONTRACTS

Seven items were adopted on the Consent Calendar.

ADJOURNMENT

Mayor Esteves adjourned the meeting at 10:44 PM in honor and in memory of the victims of the tragedy yesterday at Virginia Technical University.

The foregoing minutes were approved by the Milpitas City Council as submitted on May 1, 2007.



Mary Lavelle
City Clerk